

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBIN M. ROBERTS and U.S. POSTAL SERVICE,
POST OFFICE, Seattle, WA

*Docket No. 98-1749; Submitted on the Record;
Issued February 25, 2000*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained a recurrence of disability commencing June 3, 1997, causally related to her June 1, 1990 bilateral shoulder strain injury.

On March 13, 1995 the Office of Workers' Compensation Programs accepted that appellant, a 35-year-old distribution clerk, sustained bilateral shoulder strain on or before June 1, 1990 due to constant pushing, pulling, lifting and throwing; however, it found that, as of March 13, 1995, she did not have continuing disability for work and did not require continuing medical treatment. At that time, however, appellant was apparently working light duty. However, the Office relied upon its second opinion orthopedic specialist in determining that appellant was not disabled, could return to full duty and needed no further medical treatment.

On May 13, 1997 appellant requested a six-month leave of absence without pay from June 1 through November 28, 1997 to enable her to further her education, specifically in the area of computers.

On June 3, 1997 appellant filed a notice of recurrence of disability requesting a "rehab[ilitation] position that would accommodate my permanent medical limitations" for bilateral shoulder complaints. Appellant claimed that she had been placed on permanent limited duty and that her current work activities were patch work which required repetitive arm and shoulder movement. She noted the circumstances of recurrence as "I am presently working patch work in a limited status. Even this job requires repetitive arm and shoulder movements." Appellant claimed that since she returned to work in 1995 she had experienced shoulder and neck pain, a pinched nerve in her back, and continued clinical depression due to adverse circumstance.

On June 24, 1997 the employing establishment controverted appellant's claim on the grounds that she admittedly was filing the claim for the purpose of obtaining a rehabilitation

position, and that it was also filed in an attempt to gain a six-month leave of absence to attend classes.

In support appellant submitted several reports and letters from Dr. Christine Himes, a Board-certified family practitioner. In an undated letter received by the Office on June 18, 1997, Dr. Himes noted that appellant had had “recurrent on-the-job injuries involving both shoulders as a result of the required pushing/pulling required by her job since 1990.” She opined that, “given the recurrent nature of the injuries and clear chronicity of symptoms,” appellant should pursue a career that did not require repetitive shoulder movement. Dr. Himes noted a diagnosis of bilateral chronic rotator cuff tenderness and noted activity limitations. She again noted in a July 10, 1997 letter that appellant had a history of multiple on-the-job injuries to both shoulders over the years.¹ Dr. Himes claimed that appellant’s original shoulder injury was sustained in 1990 on the left and was caused by the repetitive “pilling of the mail sleeve,” (sic) and speculated that presumably appellant’s scar tissue which did not heal in the rotator cuff overall and in the biceps tendon in particular. She diagnosed chronic rotator cuff tendinitis as a result of repetitive injury. Dr. Himes’ July 10, 1997 letter did not describe any findings upon examination.

By decision dated September 16, 1997, the Office rejected appellant’s recurrence claim finding that she had not established a recurrence of her bilateral shoulder strain condition, but rather, that her recurrence statement described a new occupational disease, chronic rotator cuff tendinitis, due to occupational activities engaged in subsequent to March 1995, at which time the Office had determined her 1990 shoulder strain occupational condition had resolved.

On October 21, 1997 appellant requested reconsideration, noted that she was not working because the employing establishment would not find her work within her physical limitations for chronic rotator cuff tendinitis, and claimed that in support she was submitting further medical evidence. A March 6, 1998 letter from Dr. Himes claimed that appellant was diagnosed in 1990 with shoulder tendinitis, that over the years the same problem recurred in both shoulders and became increasingly disabling, that her condition had become chronic and worsened when at work.

By decision dated April 29, 1998, the Office denied modification of the September 16, 1997 decision finding that the evidence submitted in support was insufficient to warrant modification. The Office found that the evidence submitted did not demonstrate a spontaneous return or increase of disability due to her previous condition without intervening cause or a return or increase of disability due to a consequential injury. The Office noted that a recurrence differs from a new injury or condition in that with a recurrence, no event or events other than the previous injury or condition accounts for the disability.

¹ The record reflects only two occupational disease claims A14-289696 and A14-315697 which were filed for shoulder complaints. In claim No. A14-315697 appellant alleged bilateral shoulder problems which she attributed to throwing trays for three days prior to June 13, 1996. Appellant returned to work on June 22, 1996. Her diagnoses were chronic rotator cuff tendinitis, chronic degenerative joint disease of the cervical spine and left trapezius strain. This claim was denied on September 9, 1996 and reconsideration was not requested.

The Board finds that appellant has failed to establish that she sustained a recurrence of disability commencing June 3, 1997, causally related to her June 1, 1990 bilateral shoulder strain injury.

Where an employee claims a recurrence of disability due to an accepted employment-related injury or condition, he or she has the burden of establishing by the weight of the substantial, reliable and probative evidence that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment condition or injury. As part of this burden the employee must submit rationalized medical evidence based upon a complete and accurate factual and medical background demonstrating a causal relationship between the current disabling condition and the accepted employment-related condition.² Rationalized medical evidence is evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the original employment injury and supports that conclusion with sound medical reasoning.³

In this case appellant failed to submit such rationalized medical opinion evidence. The medical evidence appellant submitted consists only of multiple reports and letters from Dr. Himes, a family practitioner and not an orthopedist, who offered a diagnosis that was different from the condition accepted by the Office, and who merely declared and concluded that work duties aggravated appellant's unaccepted condition, without any pathophysiologic explanation or medical rationale as to how and why, or as to how this aggravation was related to appellant's 1990 bilateral shoulder soft tissue muscular strain. Dr. Himes further based these opinions on an inaccurate factual and medical history of appellant experiencing multiple work injuries in the interim between her present condition and her original shoulder soft tissue muscle strain injury.

The Board has held that medical reports consisting solely of conclusory statements without supporting rationale are of little probative value.⁴ In this case, Dr. Himes' reports merely declared and concluded that appellant's unaccepted condition was related to the original bilateral soft tissue muscular strain injury. As no explanation or rationale was provided, these reports are of little probative value. In this case, Dr. Himes' reports have diminished probative value as she predicated her opinion on an unsubstantiated diagnosis not accepted by the Office.

² *Jessie Johnson*, 39 ECAB 945 (1988); *Herman W. Thornton*, 39 ECAB 875 (1988); *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

³ *See Robert H. St. Onge*, 43 ECAB 1169 (1992).

⁴ *William C. Thomas*, 45 ECAB 591 (1994).

Accordingly, the decisions of the Office of Workers' Compensation Programs dated April 29, 1998 and September 16, 1997 are hereby affirmed.

Dated, Washington, D.C.
February 25, 2000

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member